

RECORDATION NO.

24538-~~J~~
FILED

JAN 28 '09

-8 00 AM

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ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

OF COUNSEL
URBAN A. LESTER

SURFACE TRANSPORTATION BOARD

January 27, 2009

Anne K. Quinlan, Esq.
Acting Secretary
Surface Transportation Board
395 "E" Street, S.W.
Washington, D.C. 20423-0001

Dear Ms. Quinlan:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of an Assignment and Assumption Agreement, dated as of January 27, 2009, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Memorandum of Railcar Lease previously filed with the Board under Recordation Number 24538-H.

The names and addresses of the parties to the enclosed document are:

Buyer/Assignee: Macquarie Corporate & Asset Funding Inc.
233 South Wacker Drive, Suite 5300
Chicago, IL 60606

Seller/Assignor: The CIT Group/Equipment Financing, Inc.
1211 Avenue of the Americas
New York, NY 10036

Anne K. Quinlan, Esq.
January 27, 2009
Page 2

A description of the railroad equipment covered by the enclosed document is:

114 railcars: CEFX 44427, CEFX 44465 and within the series CEFX 40650 - CEFX 40729 and CEFX 41340 - CEFX 41518 as more particularly set forth in the attachment to the document

A short summary of the document to appear in the index is:

Assignment and Assumption Agreement.

Also enclosed is a check in the amount of \$41.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. Alvord', with a long horizontal flourish extending to the right.

Robert W. Alvord

RWA/sem
Enclosures

JAN 28 '09 -8 00 AM

SURFACE TRANSPORTATION BOARD

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of January 27, 2009 (this "Agreement"), is between The CIT Group/Equipment Financing, Inc., a Delaware corporation (the "Seller"), and Macquarie Corporate & Asset Funding Inc., a Delaware corporation (the "Buyer").

RECITALS

WHEREAS, Buyer and Seller have entered into that certain Purchase and Sale Agreement, dated as of January 27, 2009 (the "Purchase Agreement"), providing for the purchase of the Ownership Interest by Buyer from Seller, subject to the terms and conditions set forth therein; and

WHEREAS, the Purchase Agreement contemplates the execution and delivery of this Agreement by Seller and Buyer.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows.

AGREEMENT

1. **Definitions.** Capitalized terms used herein without definition shall have the meanings assigned to them in Section 4 of this Agreement.

2. **Assignment.** As of the date hereof, Seller hereby assigns and transfers to Buyer all of Seller's rights, title and interest in, and all obligations under, the Lease and the Warranties except to the extent constituting Excluded Rights and Obligations.

3. **Acceptance of Assignment; Assumption of Obligations; Effect of Assignment.** Buyer accepts the assignment contained in Section 2 hereof and, in respect of the period on and after the Closing Date, assumes all obligations of Seller under, and agrees to be bound to the same extent as Seller by, all the terms of, the Lease. Effective on and after the Closing Date, Buyer shall be deemed to stand as Lessor in the place of Seller for all purposes under the Lease, except with respect to Excluded Rights and Obligations, and each such reference in the Lease to the Lessor shall be deemed to mean Buyer. Seller, in respect of the period on and after the Closing Date, is released of all obligations of the Lessor under the Lease, except to the extent of Excluded Rights and Obligations.

4. **Definitions.** Except as otherwise specified or as the context may otherwise require, the following terms have the respective meanings set forth below whenever used in this Agreement (terms defined in the singular to have a correlative meaning when used in the plural and vice versa).

Casualty Occurrence: any unit of Equipment becoming worn out and no longer fit for its intended service, lost, stolen, destroyed or damaged from ordinary use, neglect, abuse,

or fire, or suffering substantial damage caused by the elements or any other catastrophic event whatsoever, or taken or requisitioned by condemnation or otherwise.

Closing Date: the date of the closing of the transactions contemplated by the Purchase Agreement.

Equipment: the Equipment listed on Rider 1 hereto.

Excluded Rights and Obligations: (i) all rights to payments of indemnity that are due and payable to, or otherwise accrued in favor of, Seller prior to the Closing Date under the Lease and any rights of Seller to be indemnified, held harmless and defended by any indemnitor (including, without limitation, by Lessee) under the Lease with respect to losses, damages, injuries, claims, demands, expenses and Taxes incurred or suffered by or imposed against Seller prior to the Closing Date or in respect of any period prior to the Closing Date; (ii) all rights to payment of liability insurance proceeds that are due and payable to, or otherwise accrued in favor of, Seller prior to the Closing Date under any insurance maintained by Lessee pursuant to the Lease and any rights to any proceeds payable under any such liability insurance as a result of claims made against Seller with respect to any event occurring or circumstance existing prior to the Closing Date; (iii) all rights to payments of rent, and all other periodic and non-periodic payments (not already included in clauses (i) and (ii) above) that are due and payable to, or otherwise accrued in favor of, Seller under the Lease in respect of all periods prior to January 1, 2009 (the "Revenue Cutoff Date"); (iv) all rights to payment in respect of Casualty Occurrences prior to the Closing Date; (v) all obligations of Seller under the Lease to be performed prior to the Closing Date; and (vi) all liabilities of Seller under the Lease or in respect of the Equipment arising from any event occurring or circumstance existing prior to the Closing Date.

Lease: Rider 4 to Full Service Railcar Equipment Lease, dated as of November 28, 2006, by and between Lessee and Seller, incorporating the terms of the Master Lease.

Lessee: NRG Power Marketing LLC

Lessor: the lessor under the Lease.

Master Lease: that certain Full Service Railcar Equipment Lease, dated as of June 25, 2003, by and between Lessee and Seller.

Ownership Interest: Seller's rights, title and interest in and to the Equipment, including Seller's rights and obligations under the Lease, except the Excluded Rights and Obligations.

Warranties: service obligations and all express and implied warranties and indemnities, if any, applicable to any item or items of Equipment given by any manufacturer of any Equipment or any component thereof.

5. **Amendments.** No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

6. **Notices.** All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner prescribed by Section 9.5 of the Purchase Agreement.

7. **Headings.** The section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

8. **Counterparts.** This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

9. **Governing Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the internal substantive laws of the State of New York, without giving effect to its conflict of law rules (other than Section 5-1401 of the New York General Obligations Law).

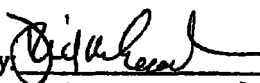
10. **Entire Agreement.** This Agreement, the Purchase Agreement, and the Bill of Sale (together with their exhibits and schedules) represent the entire agreement of the parties with respect to the subject matter hereof and thereof and supersede and cancel any prior oral or written agreement, letter of intent or understanding with respect to such subject matter.


11. **Recordation.** Seller and Buyer agree to record this Agreement with the Surface Transportation Board or the Registrar General of Canada, as applicable, to evidence the assignment by Seller to Buyer of Seller's rights and obligations under the Lease.

[signature page follows]

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto
as of the date first above written.

**MACQUARIE CORPORATE & ASSET
FUNDING INC.**

By: 
Name: DAVID M. CONRATH
Title: Auth Signer


Harry Zander
Auth. Signatory

**THE CIT GROUP/EQUIPMENT
FINANCING, INC.**


By: _____
Name: Randy Houk
Title: Vice President

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the date first above written.

**MACQUARIE CORPORATE & ASSET
FUNDING INC.**

By: _____
Name:
Title:


**THE CIT GROUP/EQUIPMENT
FINANCING, INC.**

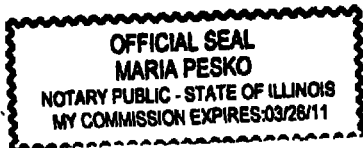
By: 
Name: Randy Hook
Title: Vice President

STATE OF Illinois)
COUNTY OF Cook) ss.:

On this, the 23 day of January, 2009, before me, a Notary Public in and for said County and State, personally appeared David Edwards a Authorized Signatory of Macquarie Corporate & Asset Funding Inc., who acknowledged herself to be a duly authorized officer of Macquarie Corporate & Asset Funding Inc., and that, as such officer, being authorized to do so, she executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.


Name: Maria Pesko
Notary Public



STATE OF Illinois)
) ss.:
COUNTY OF Cook)

On this, the 26 day January, 2009, before me, a Notary Public in and for said County and State, personally appeared Randy Houk, a Vice President of The CIT Group/Equipment Financing, Inc., who acknowledged himself to be a duly authorized officer of The CIT Group/Equipment Financing, Inc., and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Rachel D. Moton

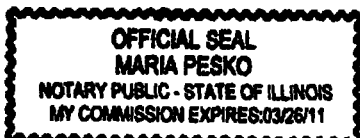


STATE OF Illinois)
) ss.:
COUNTY OF Cook)

On this, the 23 day of January, 2009, before me, a Notary Public in and for said County and State, personally appeared Harry Zander, a Authorized Signatory of Macquarie Corporate & Asset Funding Inc., who acknowledged herself to be a duly authorized officer of Macquarie Corporate & Asset Funding Inc., and that, as such officer, being authorized to do so, she executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Maria Pesko
Name: Maria Pesko
Notary Public



**Rider 1
to
Assignment and Assumption Agreement**

(items of Equipment)

Lease (Rider 4)

Number of Railcars:	116 in Rider 4, 2 casualty, 114 being sold
Description:	4,480 c.f. aluminum coal Bethgon II railcars built in 1998 by Johnstown America, with 286,000 GRL
Reporting Marks:	See Rider A hereto

RIDER A

1.	CEFX	40271
2.	CEFX	40328
3.	CEFX	40330
4.	CEFX	40451
5.	CEFX	40597
6.	CEFX	40598
7.	CEFX	40601
8.	CEFX	40602
9.	CEFX	40605
10.	CEFX	40606
11.	CEFX	40607
12.	CEFX	40609
13.	CEFX	40610
14.	CEFX	40612
15.	CEFX	40613
16.	CEFX	40615
17.	CEFX	40616
18.	CEFX	40617
19.	CEFX	40618
20.	CEFX	40620
21.	CEFX	40621
22.	CEFX	40623
23.	CEFX	40624
24.	CEFX	40625
25.	CEFX	40627
26.	CEFX	40628
27.	CEFX	40629
28.	CEFX	40630
29.	CEFX	40631
30.	CEFX	40633
31.	CEFX	40634
32.	CEFX	40635
33.	CEFX	40636
34.	CEFX	40637
35.	CEFX	40638
36.	CEFX	40639
37.	CEFX	40641
38.	CEFX	40642
39.	CEFX	40643
40.	CEFX	40646
41.	CEFX	40647
42.	CEFX	40649

43.	CEFX	40650
44.	CEFX	40651
45.	CEFX	40653
46.	CEFX	40655
47.	CEFX	40656
48.	CEFX	40658
49.	CEFX	40660
50.	CEFX	40662
51.	CEFX	40664
52.	CEFX	40666
53.	CEFX	40667
54.	CEFX	40668
55.	CEFX	40669
56.	CEFX	40670
57.	CEFX	40671
58.	CEFX	40672
59.	CEFX	40673
60.	CEFX	40674
61.	CEFX	40675
62.	CEFX	40676
63.	CEFX	40678
64.	CEFX	40679
65.	CEFX	40680
66.	CEFX	40681
67.	CEFX	40683
68.	CEFX	40684
69.	CEFX	40685
70.	CEFX	40686
71.	CEFX	40687
72.	CEFX	40688
73.	CEFX	40689
74.	CEFX	40690
75.	CEFX	40691
76.	CEFX	40693
77.	CEFX	40694
78.	CEFX	40696
79.	CEFX	40697
80.	CEFX	40699
81.	CEFX	40702
82.	CEFX	40703
83.	CEFX	40704
84.	CEFX	40706
85.	CEFX	40707
86.	CEFX	40708
87.	CEFX	40710
88.	CEFX	40712
89.	CEFX	40713
90.	CEFX	40714

91.	CEFX	40715
92.	CEFX	40716
93.	CEFX	40717
94.	CEFX	40719
95.	CEFX	40720
96.	CEFX	40721
97.	CEFX	40722
98.	CEFX	40724
99.	CEFX	40725
100.	CEFX	40726
101.	CEFX	40729
102.	CEFX	41340
103.	CEFX	41352
104.	CEFX	41355
105.	CEFX	41360
106.	CEFX	41377
107.	CEFX	41441
108.	CEFX	41470
109.	CEFX	41480
110.	CEFX	41491
111.	CEFX	41504
112.	CEFX	41518
113.	CEFX	44427
114.	CEFX	44465

CERTIFICATION

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: _____

1/28/09



Robert W. Alvord